

**Before the United States Copyright Office
Library of Congress
Washington, D.C.**

In the Matter of)	
Exemption to Prohibition on)	
Circumvention of Copyright Protection)	Docket No. RM 2008-8
Systems of Access Control Technologies)	February 2, 2009
_____)		

Comments of Time Warner Inc.

INTRODUCTION AND SUMMARY

Pursuant to the Notice of Inquiry and request for comments published by the Copyright Office in the *Federal Register* on October 6, 2008,¹ and the Notice of Proposed Rulemaking published in the *Federal Register* on December 29, 2008,² Time Warner Inc. (“Time Warner”) submits the following comments regarding various requests to exempt certain classes of works from the prohibition against circumvention of technological protection measures that control access to copyrighted works.³ Time Warner supports the comments filed by the Association of American Publishers (AAP), and others (“Joint Creators and Copyright Owners”)⁴ and the Motion Picture Association of America (“MPAA Comments”). We write separately to highlight the potential impact that certain of the requested exemptions may have on our distribution of content into the digital marketplace.

We are greatly concerned that many of the exemptions sought in this round amount to an attempt to rewrite the Digital Millennium Copyright Act (“DMCA”) to insert fair use as a general defense to circumvention. While we support a balanced copyright regime that includes a robust fair use doctrine, such a proposal advocates a radical shift from the approach of the Register in past rulemakings that threatens to eviscerate Section 1201’s protections and is completely contrary to the path considered and rejected by Congress when it enacted the DMCA, and in the 10 years since.⁵ We also are concerned by other

¹ Notice of Inquiry for Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, 73 *Federal Register* 58073 (Oct. 6, 2008).

² 73 *Federal Register* 79425 (December 29, 2008)

³ In addition to supporting the Joint Creators and Copyright Owners and MPAA Comments, this reply comment specifically addresses the following initial submission comments: Comments of Megan Carney; Comments of Mark Rizik; Comment of Gary Handman, Media Resources Center, UC Berkley; Comments of Kevin L. Smith, Duke University; Comments of Renee Hobbs; Comments of Peter DeCherney, University of Pennsylvania; Comments of the Library Copyright Alliance; Comments of the Music Library Association; Comments of Gail Fedek; Comments of Matt Perkins; Comments of Christopher Soghoian, Berkman Center for Internet and Society; Comments of Fred Von Lohmann, Jennifer S. Granick, Electronic Frontier Foundation and Kartemquin Educational Films, Inc.

⁴ Comment of the Joint Creators and Copyright Owners, dated February 2, 2009.

⁵ e.g. *Universal City Studios v. Corley* 2001 U.S. App. LEXIS 25330 (2nd Cir. 2001), and Ginsburg, Jane C. *The Pros and Cons of Strengthening Intellectual Property Protection: Technological Protection Measures*

proposals which seek to expand unreasonably the narrow exemptions that have been approved by the Copyright Office in previous proceedings, in such a manner to make the exception swallow the rule.

In summary we submit the following in relation to the specific exemptions focused on in our comments:

- (1) We regard as unwarranted, an exemption to circumvent Technological Protection Measures (“TPMs”) applicable to subscription based services that offer streaming video limited to particular platforms, as it will adversely affect the range of choices consumers have in receiving streaming content, and will limit innovation in the streaming video space.⁶
- (2) We do not oppose the renewal of the existing exemption applicable to film and media studies professors to allow the circumvention of TPMs to create clip compilations, nor its possible expansion to include the use of works in the general library of a university (rather than the film and media studies library).⁷ However, we believe that certain clarifications are necessary to limit the renewal to specific TPMs/formats, and that any renewal should also take into account a “film clip server” being developed by the motion picture industry to facilitate the provision of clips to film professors, which, when implemented, could obviate the need for an exemption.
- (3) We oppose the expansion of the existing exemption applicable to film and media studies professors to professors and students in other disciplines because the harm to non-infringing uses proposed by such users has not been adequately demonstrated in relation to the proposed expansion, nor has it been adequately demonstrated that other means of obtaining clips (such as seeking them from studios) are insufficient. We draw attention to the emergence of service which may provide access to certain works for academic study and comment by students and teachers alike, without the need for circumvention in such contexts.
- (4) We oppose the proposal to allow circumvention of measures that protect audiovisual works delivered by free terrestrial digital TV transmission which are marked with a “broadcast flag” since it addresses a purely hypothetical scenario, mischaracterizes the broadcast flag as an access control measure, and fails to demonstrate the likelihood of any harm to non-infringing uses.⁸
- (5) We oppose the circumvention of measures that mark certain audiovisual content for “down-resolution,” since the technology sought to be circumvented does not prevent or even meaningfully restrict access to content,

and Section 1201 of the U.S. Copyright Act (February 1, 2007) Columbia Public Law Research Paper No. 07-137, at 15, referring to the example of allowing an exemption for circumvention for the purposes of making non-infringing remixes as casting “us back into the slough of overbreadth potentially vitiating the protection of access controls in the first place.”

⁶ Comments of Megan Carney, *supra* note 3.

⁷ Comments of Gary Handman, Kevin L. Smith; Renee Hobbs; Peter DeCherney; the Library and Copyright Alliance and the Music Library Association and Gail Fedek, *supra* note 3.

⁸ Comments of Matt Perkins, *supra* note 3.

is not currently in use, and is permitted to be used only if consumers are adequately informed of its use.⁹

- (6) We oppose the circumvention of TPMs that depend on the continued availability of authenticating servers, as it would undermine an extremely useful and innovative tool increasingly used by content providers to enhance and extend access to content by consumers.¹⁰
- (7) We oppose the proposal to grant exemptions to “vidders” and documentary filmmakers because the proposals advocating exemptions are based on self-defined user groups and criteria rather than well-defined classes of works, and would likely sweep in infringing uses of copyrighted works.¹¹

ABOUT TIME WARNER AND THE DIGITAL MARKETPLACE

In enacting the DMCA, Congress sought to spur the development of the digital marketplace for content, including entertainment content, by ensuring that content owners could release their works in digital formats, and experiment with the delivery of works in new and innovative ways, while appropriately managing their rights. Time Warner actively seeks to offer consumers the widest variety of options in how they receive content and to maximize the benefits of new digital distribution technologies.

In considering the requested exemptions, we urge the Copyright Office to take note of the significant expansion of access to content made during the history of these proceedings, and the substantial benefits derived by consumers from continued availability of copyrighted works via the numerous digital distribution modes supported by TPMs outlined in these comments.¹²

As one of the world’s largest media companies and a leading developer and distributor of digital content, Time Warner is uniquely situated to comment for this rulemaking because our diverse businesses encompass many aspects of content creation and distribution and touch consumers in all of the many ways they enjoy entertainment content. Our businesses are interactive services, cable systems, filmed entertainment, television networks and publishing. Time Warner businesses include leading global web service company America Online, Inc. (“AOL”), the most watched cable pay services in the U.S. HBO and Cinemax, leading publisher Time Inc, cable system pioneer Time Warner Cable and the leading provider of programming for the basic cable industry and operator of CNN, Turner Broadcasting System (“Turner”), and global film and television entertainment leader Warner Bros. Entertainment (“Warner Bros.”).

⁹ Comments of Matt Perkins, *supra* note 3.

¹⁰ Comments of Christopher Soghoian, Berkman Center for Internet and Society.

¹¹ Comments of Fred von Lohmann and Jennifer S. Granick, *supra* note 3. and Kartemquin Educational Films, Inc. and the International Documentary Association, *supra* note 3,

¹² The DMCA requires the Copyright Office to balance the following factors in evaluating the requested exemptions: (1) the availability of works for use, (2) the effect of the prohibition on circumvention on particular uses, (3) the effect of circumvention of copyrighted works and (4) other appropriate factors, at the option of the Copyright Office. *See* 17 U.S.C. §1201(a)(1)(C) (1998).

As Congress predicted, the use of TPMs has opened the door for many copyright owners, including our various divisions, to offer consumers more choices and flexibility.¹³ With the availability of TPMs that allow us to offer consumers choices in how they receive their content, consumers can now buy what they want, how and when they want it - and our divisions can price and support their offerings appropriately while managing their distribution rights and protecting their copyrights.

Contrary to the assertions of some proponents of new exemptions who claim that content owners limit the platforms to which their content is made available, or seek to preclude consumer commentary/interaction with and use of their works,¹⁴ Time Warner divisions have licensed content for use with all major commercially available TPMs, enabling distribution on a wide variety of platforms and services, and often in ways that allow for interactive uses of our content.

We --

- distribute content via DVD, and in high definition with interactive features on Blu-ray,
- deliver content through subscription services,
- make it available for Video on Demand (VOD), rental models, and permanent download via cable and satellite as well as a variety of Internet and mobile based services,
- license the streaming of our content in paid, advertising supported and free models,
- enable consumers to interact with our content by making certain content available for embedding on consumer websites, blogs, social networking and user generated content sites,
- use video tools and other “widgets” to bring content to consumers’ desktops,
- make video searching easy both on our own websites like CNN.com, and through video search engines like Truveo,
- encourage consumer-level syndication of certain content on broadband, wireless and websites, and
- allow consumers to create and comment on our content and share it with others.

Blu-ray and DVD: Time Warner and its divisions have been at the forefront of innovation to enable the launch of new consumer formats. DVD, a technology which Warner Bros. helped launch, is still the most successful consumer format to date. In 2008 Warner Bros. released 616 titles and sold 159 million units in the United States in DVD format, protected by the Content Scramble System. Warner Bros. and Time Warner have also played an important role in developing technologies key to the launch of Blu-ray, a new optical disc format which delivers high definition motion picture content to consumers and enables additional functionality such as the ability to add commentary,

¹³ See acknowledgement by the Copyright Office that the “availability of access measures has resulted in greater availability of (these) materials.” Final Rule, Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, 65 Fed. Reg. 64555, at 64568, footnote 13, October 27, 2000

¹⁴ See Comments of Megan Carney, Kevin L. Smith, Renee Hobbs and others.

host community screenings and create playlists of favorite clips from movies. Blu-ray was launched in 2006, and in 2008 Warner Bros. released 107 titles and sold 7.1 million discs.

BD Live: On December 9, 2008 Warner Bros. released *The Dark Knight* as the first Warner Bros. feature to include BD-live Blu-ray features. BD-live enables studios to provide interactive features and extra content to Internet enabled BD-live players, such as Play Station 3 (the most popular Blu-ray player sold to date), and stand-alone BD-live capable players offered by major Consumer Electronics manufacturers. This release allows users to

- Host their own “Live Community Screening” with their buddy list, or with the entire Warner Bros. BD-live community. Using this feature fans can send invitations to friends across the country to participate in a community screening of the film at a time chosen by the person hosting the event, and chat with each other live during the screening.
- Create their own picture-in-picture commentary to be played in conjunction with the film, and share it with buddy lists or the entire Warner Bros. BD-live community. The commentaries can run with the entire film, or the consumer can select and comment on particular scenes of interest. Commentary can be shared with and rated by the BD-live community.
- Receive additional streamed content such as motion comics, exclusive looks at the premier of *The Dark Knight* in New York City, and sneak peeks of upcoming Warner Bros. releases

Using the Live Community Screening feature, Warner Bros. sponsored a special screening with the director of *The Dark Knight*, Christopher Nolan. Fans were able to send questions and comments to and interact with Nolan and each other during a live screening of the film, held on December 18, 2008. Thousands of consumers participated in this special BD-live event and over 40,000 questions to Mr. Nolan were submitted.

Video On Demand (VOD): Demand for VOD services has grown exponentially since the time of the last proceeding in 2005/06, and Time Warner divisions have moved quickly to satisfy consumer demand for these services – both in terms of windowing of offers and the number of services and platforms supported. With very few exceptions, Time Warner now releases content in DVD format and to VOD services on the same “day and date” – across all platforms and all titles (historically, titles were made available to VOD services weeks or months after the DVD release date). At the time of the last proceeding, only two legitimate Internet based VOD services existed in the United States. Today, Time Warner divisions including, Warner Bros. and Turner, license VOD delivery to a variety of on-line services, which in turn deliver their offerings to scores of platforms including: PCs, Apple TV, Playstation, Xbox, Roku, Vudu, BRAVIA television sets and TiVO. VOD services are also available to consumers with digital set top devices through cable and satellite operators and via cell phone providers that employ the Open Mobile Alliance (OMA) developed DRM standard.

Various movie-rental companies such as Netflix and Blockbuster also offer Time Warner content for rental in optical disc form with immediate streaming of an electronic copy of the movie to broadband connected digital devices such as personal computers, mobile phones, Internet connected TVs, x-box 360 and Blu-ray disc players. Using such services, consumers may also easily transfer content rented from the service between devices registered to a consumer's account. For instance, on January 14, 2009, Blockbuster Inc. announced that a service it is launching will allow users to acquire movies for sale or for rent on a variety of Internet connected devices, and will enable consumers to begin watching a movie on one Internet connected device, and later watch the remainder of the movie on another device registered to the user's account.¹⁵

Electronic Sell Through (EST): At the time of the last proceeding, Time Warner divisions were just beginning to explore licensing relationships with entities offering consumers the ability to download permanent, TPM protected copies of content to their PCs and portable media players. HBO, Warner Bros. and Turner currently license digital distribution services, such as iTunes (and Amazon, in the case of Warner Bros. and Turner) that offer content to consumers on a variety of platforms and devices. In addition, consumers who purchase EST titles are authorized and encouraged to copy the content (at no extra charge) in a TPM protected manner onto multiple devices to facilitate their viewing convenience and enjoyment of the content. For the past two years, Warner Bros. has made all of its new release theatrical titles available via EST day-and-date with the DVD and Blu-ray video releases, and this practice remains Warner Bros.' current business plan going forward. Furthermore, consumers can now purchase EST copies of Warner Bros. produced television programs less than 24 hours after their initial broadcast on network or cable television.

Digital Copy: Warner Bros. and HBO also offer various means for consumers to obtain additional electronic copies of select titles they have purchased on DVD and Blu-ray. The majority of Warner Bros. new DVD and Blu-ray releases, and select HBO titles now come with a digital copy that can be moved to a PC or any portable device that supports the relevant TPM (e.g., Arcos, Zune, iPod).

Try it, like it, buy it: Warner Bros. has worked with distributors such as Amazon to establish flexible delivery models that allow consumers to try content via a VOD service, and later convert that rental to a permanent download or a DVD, if the consumer wishes to retain a copy.

Preloaded Content, Manufacture On Demand (MOD) and Kiosks: Our divisions also deliver content in various innovative ways that do not involve transmission via the Internet or cable/satellite services. For instance, through a partnership with Dell computers, consumers can configure and purchase a Dell computer on line, including adding an entertainment package to the computer that includes TPM protected Warner Bros. film titles. Later purchases and rentals can be made using the Dell EST/VOD online store. Warner Bros. is currently working with a number of licensees to create

¹⁵ See "Blockbuster Offers Videos Via Internet" by Elizabeth Holmes, The Wall Street Journal, Wednesday January 14, 2009, B4.

public kiosk services that will allow consumers to purchase and download TPM protected movies onto a variety of portable media, such as USB drives, or onto recordable optical media. Similarly, HBO currently uses an affiliate of Amazon—Createspace, which operates a service that enables consumers to request DVDs to be manufactured for them—to allow customers to purchase DVDs of HBO documentaries from www.Amazon.com and www.HBO.com. We anticipate that these services will be particularly well suited to meet the interests of consumers who seek titles that may not be readily available elsewhere in the marketplace, and will enable consumers to obtain so-called “longtail” content.

Direct to Consumers: Besides licensing scores of third-party services to deliver Time Warner content to consumers, Time Warner divisions maintain an online presence that allows them to deliver content directly to consumers. For instance, www.WB.com allows consumers to purchase and rent Warner Bros. pictures via VOD, EST, DVD and MOD methods. Likewise, HBO and Turner enable direct to consumer offers from their websites. Among other services, www.theWB.com recently launched a the “WBblender” feature, which enables consumers, at no charge, to use clips of WB television content to create mash-ups which can be posted on social networking pages or sent to friends.

Mobile: An HBO branded mobile service is available through AT&T in the U.S. and Vodafone internationally, offering full-length, chaptered episodes from some of HBO’s most popular series. Similarly, Turner makes www.CNN.com available to mobile devices, as well as short-form content from websites like www.AdultSwim.com.

The rich variety of digital content services described above is enabled by the use of TPMs. We believe that those who seek the promulgation of additional exemptions to the prohibition against circumvention of access control measures face an even greater burden in this rulemaking than in prior years, given the substantial degree of expansion of the range of uses of copyrighted content supported by TPMs in the marketplace. As demonstrated by the vast increases year over year in the number, variety and types of services licensed by Time Warner divisions and the increasing flexibility offered to consumers to enjoy and interact with their copyrighted content, the DMCA is working as intended to bring digital content to users in new, innovative ways.

RESPONSE TO SPECIFIC EXEMPTION REQUESTS

Proposed Class: Comment 2. Subscription based services that offer DRM protected streaming video where the provider has only made available players for a limited number of platforms, effectively creating an access control that requires a specific operating system version and/or set of hardware to view purchased material.¹⁶

Summary and Discussion:

As demonstrated above, Time Warner actively licenses its content to a broad variety of platforms, using all commercially available TPMs. In our experience, licensing content

¹⁶ Comments of Megan Carney, *supra* note 3.

to a variety of platforms has broadened and not diminished the array of choices available to consumers, regardless of whether each licensed service enables the use of multiple players. We believe that the availability of content on different platforms and services encourages the developers of those platforms to compete with each other and innovate, and that the trend is towards the availability of content across different platforms, leading to greater interoperability and flexibility for consumers, who can purchase content (not just streamed content, for that matter) from a single point for use across various platforms and devices.

While true interoperability between and across platforms is still a goal we are actively working to meet, in the interim services are launching that enable the use of content across a variety of broadband connected devices. For example, as mentioned earlier in these comments, Time Warner content is licensed to various movie-rental companies such as Netflix and Blockbuster to make available in optical disc form with immediate streaming of an electronic copy of the movie to broadband connected digital devices such as personal computers, mobile phones, Internet connected TVs, x-box 360 and Blu-ray disc players. Using such services, consumers may also easily transfer content rented from the service between devices registered to a consumer's account.¹⁷

Through licensing content to a variety of outlets, we also aim to ensure that even if a work is not available on one platform, consumers will be able to access such content in other ways. Very few instances exist where a subscriber to a streaming service is unable to access particular content as a result of platform restrictions, because content would almost certainly be made available by way of a myriad of different distribution channels, including DVD, VOD, broadcast, cable, rental or online distribution.¹⁸

It is Time Warner's goal to ensure that as much of our content is available to consumers on as many platforms as possible. While certain platforms may restrict the types of devices that can receive content, this does not preclude consumers from obtaining the content from other sources, and may in fact spawn creativity by competitors, which will accrue to the benefit of consumers with the availability of additional and more varied offerings to choose from. Allowing for circumvention of TPMs employed by services would ultimately hamper our goal to provide access to content on as broad a range of platforms as possible.

Proposed Class: Comments 4A – 4H. Renewal and/or expansion of the current exemption relating to the use of audiovisual works by film and media studies professors.¹⁹

¹⁷ See "Blockbuster Offers Videos Via Internet" by Elizabeth Holmes, The Wall Street Journal, Wednesday January 14, 2009, B4.

¹⁸ "An exemption is not warranted simply because some uses are unavailable in the particular manner that a user seeks to make the use, when other options are available. If a user may access the [work] in readily-available alternative ways or may purchase the works in alternative formats, the need for the exemption becomes simply a matter of convenience or preference." Federal Register / Vol. 71, No. 227 at 68478.

¹⁹ See Comment of the Library and Copyright Alliance and the Music Library Association, *supra* note 3; Comment of Peter Decherney et al., *supra* note 3.

Summary and Discussion:

Submissions 4A through 4H seek to expand the existing exemption to cover circumvention of content for use in a variety of educational contexts, while submission 4E argues for the renewal of the existing exemption. While we do not oppose the renewal of the existing exemption,²⁰ we seek to ensure that certain aspects of its scope are clarified (such as confining the exemption to audiovisual works protected by CSS on DVDs). Furthermore, we wish to provide further details of the creation of a voluntary scheme that would provide certain beneficiaries of the existing exemption with access to content without requiring circumvention. We oppose the expansion of the existing exemption for the reasons outlined in further detail below.

Renewal of the existing exemption:

We join in the comments of the MPAA and Joint Copyright Creators on this issue, and write separately to provide a few additional details concerning our efforts to make film clips available to users, including via a film clip server that is intended to supply film professors (including those operating under this exemption) with an easy to use, free service that will not require circumvention of TPMs. If the Copyright Office decides to renew the proposed exemption for film and media professors, it should permit circumvention only in instances where the content being sought is not available via the proposed server.

We make reference to the comments submitted by the Motion Picture Association of America (“MPAA”) concerning the plans that have been undertaken with the University of Southern California School of Cinematic Arts (“USC”) to design an online film clip service to help facilitate in-classroom use of film clips by film professors without the need for circumvention of technical protection measures (“Service”).

Time Warner and Warner Bros. are strong proponents of the Service and believe that it will serve the educational related needs of film professors more readily and more efficiently than circumvention of CSS on DVDs. Our goal — shared both by USC and the other film studios — is to have a broad array of film titles available on the Service so that film professors can avail themselves of an easy-to-use “one stop shop” for browsing full length films and selecting the clips they want for their educational purposes. As set forth in the MPAA comments, as long as the film title is available on the Service any professor with an account on the Service will be able to access the full title and copy and use clips from the title irrespective of whether a DVD of the film title is owned by the film professor or his or her associated school.

Warner Bros. is working diligently with USC and the other studio members of the MPAA with the goal of bringing the Service into operation some time this year.

²⁰ Provided the Register is satisfied that the commenter has met the burden of demonstrating that it is appropriate to do so, in light of the guidelines set forth in 17 U.S.C. §1201(a)(1)(C).

In the interim, until the clip server is available, Warner Bros. continues its commitment to provide and license clips for a variety of purposes, including educational uses.

Expansion of exemption to other educational contexts:

In our experience requests for clips or permission to use clips by educational users are relatively infrequent and the number of such requests is declining. Such requests are only a small proportion of the overall requests we receive yearly. For instance, in 2007 we received only 99 such requests (out of a total of 3,431 requests for the year). In 2008 we received only 34 requests from educational users (out of a total of 3,213 for the year). Of these requests, the vast majority were from University level educators. All requests for educational users in 2007 and 2008 were granted within 3-5 business days and typically within a single business day.

Although we do not object to the renewal of the film professors' exemption, we do object to the expansion of the exception to other users, given the lack of documented attempts to obtain film clips from studios for such uses. In fact, despite our well documented policy of facilitating non-commercial uses of clips for educators (to which we have testified in prior proceedings), until this January, Warner Bros. had never received a request from any educational user to supply the user with a film clip to be used in class. (All previous requests had been for permission to show DVDs in class) In the single instance, this January, where we were requested to provide a clip we were able to do so, attaching the identified clip electronically, by return email, without charge.²¹

We believe that these facts, showing the infrequency of requests for educational use of content in ways that would require circumvention should mitigate against the expansion of the existing exemption to instances which may not clearly be non-infringing, and where paths to voluntary licensing or provision of clips have not adequately been explored.

We specifically oppose the expansion of the exemption to students or for instructional use outside of the university level film and media studies faculty. We do not believe that the relevant commenters have shown the required level of necessity analogous to the use of such clips by media and film studies instructors, particularly with regard to the level of quality of clips sought. While video capture may be more time consuming, mere inconvenience is insufficient to warrant an expansion of this exemption.²²

In addition, we wish to make the Copyright Office aware of the development of a licensed service that will provide increased access to licensed clips to film and media studies professors, and potentially a broader audience, without the need for

²¹ Note, however, that Warner Bros. incurred and absorbed approximately \$150 in lab fees in obtaining the clip for the user. See correspondence with Jack Weimer, PhD, Azusa Pacific University, Art Department, attached as Exhibit A.

²² See e.g., Notice of Inquiry, *supra* note 1; Final Rule: Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, 37 C.F.R. Part 201, 62014-5 (Oct. 28, 2003).

circumvention. We note this development as an example of just one of the types of services that are emerging to serve the needs of the educational community without the necessity of circumventing access controls. The proposed service is spearheaded by Robert Stein, a noted media pioneer who founded and ran The Criterion Collection for 13 years.²³ A strong believer in the principles of fair use and current director of The Institute for the Future of the Book, Stein's proposed service is in line with his goals of exploring and influencing the evolution of new forms of intellectual expression and discourse. In that regard, the service would:

- provide access to motion pictures and television programs from which clips would also appear alongside a textual critique of the relevant elements of the work, with the aim of providing a method of teaching visual literacy in the same way as literature (see sample screen shot attached as Exhibit B),
- extend beyond the film and media studies context at the university level, into other disciplines and levels of education,
- enable instructors and students to interact, adapt and create their own instructional materials or papers, as well as share and distribute those materials incorporating film clips amongst other members of a specific group, and
- ensure that the clips themselves cannot be easily distributed, by requiring password access to the service, and hosting of the clips themselves on a central server of the service.

Plans are underway to launch the first titles in what Stein anticipates would be a series of studies in early 2010.

Proposed Class: Comment 9A - Audiovisual works delivered by digital television transmission for free, over the air transmission by anyone, which are marked with a "broadcast flag" indicator that prevents, restricts or inhibits the flexibility of ability of recipients to access the work at a time of the recipients choosing and subsequent to the time of the transmission, or using a machine owned by the recipient but which is not the same machine that originally acquired the transmission.²⁴

Summary and Discussion:

This request relates to the theoretical possibility that future free to air digital transmissions may apply a "broadcast flag" to trigger the use of various TPMs, and argues that such a regime might impede time or format shifting. We note that the Copyright Office has declined to grant requests for similar exemptions in the past because they are predicated on the establishment of a mandatory legal regime which is (and remains) highly speculative.²⁵ We oppose this request because the broadcast flag regime referred to remains speculative and because the drafter asserts without any

²³ The Criterion Collection distributes unique - and now collectable - versions of classic motion pictures, first on laser discs, and later on DVDs, Blu-Ray and digital downloads. <http://www.criterion.com/>

²⁴ Comments of Matt Perkins, *supra* note 3.

²⁵ The Register cannot recommend an exemption based upon speculation about a legal regime that may or may not be imposed in the next three years. Federal Register / Vol. 71, No. 227 at 68479

evidence whatsoever that broadcasters and copyright owners will begin to experiment with the flag even absent its approval.

Moreover, the case has not been adequately made that a broadcast flag regime would even constitute an access control, or that it would have the effect on users the proponent of the exemption postulates. As proposed by the FCC, the purpose of the broadcast flag was to protect digital broadcast television content from potential unauthorized redistribution.²⁶

If at some future date the broadcast flag regime is re-established consistent with the FCC's prior ruling, the broadcast flag would have no effect whatsoever on a consumer's ability to access a work as it is being broadcast, nor would it prevent consumers from making a personal recording of broadcast content and viewing it at a later, more convenient time.

With regard to shifting content from one device to another, the Copyright Office has previously concluded in the 2006 rulemaking: "that the reproduction of those works onto new devices is an infringement of the exclusive reproduction right unless some exemption or defense is applicable. In the absence of any persuasive legal authority for the proposition that making copies of a work onto any device of the user's choosing is a non-infringing use, there is no basis for recommending an exemption to the prohibition on circumvention."²⁷

In short, there is no evidence to support a finding of a probability of any adverse impact on non-infringing use due to the deployment of a broadcast flag. The facts point in the other direction: the purpose of the broadcast flag is not to prevent home copying for the purposes of time shifting, and furthermore, as evidenced by the various digital offerings Time Warner divisions make--all facilitated by the availability of TPMs--content protection systems are becoming more, rather than less flexible, and consumers are enjoying broader access and flexibility in consuming copyrighted works.

Proposed Class: Comment 9B - Audiovisual works embedded in a physical medium (such as Blu-Ray discs) which are marked for "down-resolutioning" (such as by the presence of an Image Constraint Token (ICT) when the work is to be conveyed through any of a playback machine's existing audio or visual output connectors, and therefore restricts the literal quantity of the embedded work available to the user.²⁸

Summary and Discussion:

This request, seeking permission to circumvent an Image Constraint Token (ICT) that can be set under particular circumstances pursuant to the Advanced Access Content System

²⁶ Digital Broadcast Content Protection, 18 FCC Rcd 23,550 (2003)

²⁷ Federal Register / Vol. 71, No. 227 at 68478

²⁸ Comments of Matt Perkins, *supra* note 3.

Interim Content Participant License (CP Agreement) is also purely hypothetical, and the ICT technology sought to be circumvented does not constitute an access control.²⁹

First, while the proponent of this exemption himself notes the absence of any evidence in the marketplace of the use of ICTs, there is no reasonable likelihood that even if the ICT were used by a content provider, that its use would prevent access to works protected by the ICT in a manner that would justify the granting of an exemption.

Pursuant to the CP Agreement, the ICT is used to trigger a Constrained Image in devices which rely on unprotected analog inputs to display the content from a Blu-ray disc.³⁰ A Constrained Image is defined as one having the visual equivalent of no more than 520,000 pixels per frame (e.g. 960 pixels by 540 pixels for a 16:9 aspect ratio).³¹ While somewhat constrained from a full High Definition image, this resolution nevertheless permits rendering of content in better than DVD quality.

Not insignificantly, the Copyright Office has heard comments in this and previous proceedings that even film professors teaching their students the nuances of filmmaking regularly rely on DVD quality images. The image produced here would be better, and pursuant to the AACS Licenses, Consumer Electronics manufacturers who build products that implement the ICT would also be entitled to use video processing techniques such as line doubling, or sharpening to improve the perceived quality of the image even though it was delivered in down-converted form.^{Id.}

Significantly, by the proponent's own admission, all or nearly all of the HD television monitors sold in recent years include digital inputs to which the ICT does not apply. Thus, as a practical matter this means that even if the ICT were used, it would be of interest only to owners of legacy monitors which are not likely capable of displaying a full resolution HD image in any event. In such a situation there would be no harm to the user.

Moreover, the CP Agreement includes provisions that require content owners who direct that the ICT be set with respect to a particular licensed content product, to disclose this fact to consumers either by including information on the product packaging, or by other reasonable means such as point of purchase display signage.³² Accordingly, if the ICT is ever used, consumers will be making an informed choice to acquire a product that will be displayed somewhat differently on their analog-driven legacy monitor than on a full HD television.

The Copyright Office should reject this request because, the technology sought to be circumvented does not prevent or even meaningfully restrict access to content, is not currently in use, and is permitted to be used only if consumers are adequately informed of its use

²⁹ See www.aacsla.com/support

³⁰ See AACS Interim Content Participant Agreement, Exhibit C, Section 2.12

³¹ AACS Interim Content Participant Agreement, Exhibit C, Section 2.6.

³² See AACS Interim Content Participant Agreement, Section 5.4.

Proposed Class: Comment 10A. Lawfully purchased sound recordings, audiovisual works, and software programs distributed commercially in digital format by online music and media stores and protected by technological measures that depend on the continued availability of authenticating servers, when such authenticating servers cease functioning because the store fails or for other reasons.

Summary and Discussion:

This request poses significant potential harm to the provision of legitimate and innovative services which rely on the use of authenticating servers. The ability to use authenticating servers to set and update rights has provided content owners such as Warner Bros., HBO and Turner with an effective tool to deliver content and services in the online space, such as those described in the introduction to these comments. For example, the “try it like it buy it” type of service, where consumers are encouraged to sample content via VOD, and then upgrade at a later point should they decide to keep a permanent copy would not be possible without the use of authenticating servers.

While services may vary, our experience in licensing such services indicates that in most cases there is no need to authenticate with a server every time the consumer chooses to experience the content. Instead, authentication typically occurs mainly when the license associated with the content is set or revised. Moreover, as the comments of the Joint Copyright Creators make clear, most commercial services that have failed or ceased operations make accommodations for their customers. Consequently, this request presents another hypothetical scenario and fails to document harm or likelihood thereof that would justify permitting circumvention.

In short, we believe that the use of authenticating servers is precisely the type of innovative measure that the protections underlying the DMCA exist to safeguard, and the significant benefits are provided to consumers which trump the unsubstantiated concerns raised by the proponent of this request.

Proposed Class: Comment 11A - Audiovisual works released on DVD where circumvention is undertaken solely for the purpose of extracting clips for inclusion in noncommercial videos that do not infringe copyright.³³

Summary and Discussion:

Both proposals 11A and 11B seek by varying degrees to make fair use a general defense to circumvention. This suggestion has been clearly rejected as inconsistent with the stated aims and intent of the DMCA, and runs counter to well-established judicial precedent, which requires fact-intensive four step analysis of whether a proposed use falls within the scope of fair use, rather than an abstract determination not based on a factual record of the use.³⁴

³³ Comments of Fred von Lohmann and Jennifer S. Granick, *supra* note 3.

³⁴ *Supra*, note 4

Where an exemption is proposed to be determined not by the class of work, but rather by the self-declared pursuit of a non-infringing use, the proponents of these requests have failed to demonstrate “distinct, verifiable and measurable impacts” on non-infringing use, particularly since a significant proportion of the activities targeted for inclusion may be infringing. In the absence of legal certainty that a substantial proportion of the activity they aim to cover will clearly be non-infringing, these proposals cannot meet the standards required for approval of such an exemption.

As a company that has actively participated in the development and rollout of TPMs which have enabled a multitude of innovative services, we cannot emphasize enough the potential for harm that could follow an exemption applicable to the use of works which may be considered “fair” and non-infringing in one set of circumstances, and infringing in another (what is considered transformative, for example, will depend on the context in which the relevant clip is used). This would severely undermine the efficacy of the TPM for all such uses.

We do not believe that using content to create so-called “noncommercial” videos would consistently result in a finding of non-infringing use. Furthermore, while the “vidders” themselves may be making noncommercial uses, the sites on which the videos are displayed are often heavily engaged in monetizing such content, including for the benefit of the vidders themselves.³⁵

In both this request and that for documentary filmmakers outlined below, the lines drawn by the proponents around the particular classes of works are so vague as to be prone to an over-broad interpretation that would leave users in doubt as to whether they are covered, or may create an impression of such coverage where none actually exists.

Although we object to the exemption because much of the contemplated activity the “vidders” describe may require permission of the rights holder, Time Warner divisions are already actively engaged in providing opportunities to “vidders” to legitimately use and license content for the purposes of creating noncommercial videos and documentaries. For example, HBO has long made episodes and clips of some of its content, such as *Flight of the Conchords*, available for social networking pages, in creating mash-ups, etc. Similarly, www.theWB.com includes a tool called the WBlender which allows users to drag photos and videos of Warner Bros. TV shows on to the tool, add graphics, transitions, captions and effects to create mash-ups and other videos which can be remixed and shared.

Proposed Class: Comment 11B - Motion pictures and other audiovisual works in the form of Digital Versatile Discs (DVDs) that are not generally available commercially to the public in a DVD form not protected by Content Scramble System technology when a documentary filmmaker, who is a member of an organization of filmmakers, or is enrolled in a film program or film production course at a post-secondary educational institution, is accessing material for use in a

³⁵ See for example, <http://www.youtube.com/partners>

specific documentary film for which substantial production has commenced, where the material is in the public domain or will be used in compliance with the doctrine of fair use as defined by federal case law and 17 U.S.C. § 107.³⁶

Summary and Discussion

We do not believe that the scope of this proposal would adequately delineate a class of works which can clearly be shown to be the subject of primarily non-infringing use.

While documentaries may be informative in nature, they are often commercial works with substantial production budgets, which are later licensed and syndicated to other commercial entities. The use of clips of other works within documentaries cannot be presumptively regarded as fair use.

As a company that has produced and distributed many documentaries, we respect and rely on the principles of fair use. However, we are also acutely aware of the importance of ensuring that we treat content as we wish our content to be treated, by obtaining the necessary rights and clearances for the use of third party content as appropriate. In instances where documentary filmmakers have approached us asserting that they intend to make a fair use of our content, we have issued “no-objection” letters, notably including instances where the proposed use is not likely to be favorable to the original author. (See correspondence with Kelly Thompson dated January 20, 2009 in which the filmmaker seeks to use numerous clips from *Tarzan the Ape Man* and *Bosko Shipwrecked!* to critique the depiction of African culture and civilizations in popular American media in the 1930s, attached as Exhibit C.)

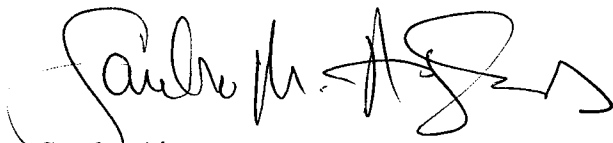
Furthermore, regardless of whether a filmmaker asserts he or she is making fair use of a clip in a documentary, Warner Bros. has a policy working cooperatively with documentary film makers to facilitate their uses of clips of our films. Indeed, in 2008 we worked with 368 documentary film makers to address their requests for clips, and frequently granted discounts from our standard clip fees in order to accommodate their budgets. Hence, we oppose this request for an exemption for the same reasons we oppose the request presented by “noncommercial vidders” (whose use of our work we also seek to facilitate) – namely, because it rests on an undocumented and unchecked self-determination that the intended use is “fair”.

Conclusion:

Because the comments described above do not provide evidence of the type of actual or likely adverse effect on non-infringing uses that is cognizable under section 1201(a)(1)(C) of the Digital Millennium Copyright Act, the Librarian of Congress should deny the requested exemptions. We would welcome the opportunity to provide further information through the hearing process.

³⁶ Comments of Fred von Lohmann and Jennifer S. Granick, *supra* note 3.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sandra Aistars', with a large, stylized initial 'S'.

Sandra Aistars

Associate General Counsel, Intellectual Property

TIME WARNER INC.

1 Time Warner Center, 14th Floor

New York, NY 10019

EXHIBIT A



Warner Brothers
Clips & Still Licensing
4000 Warner Blvd.
Building 11
Burbank, CA 91522
(818) 954-1853 phn (818) 954-3817 fax

Dear Warner Brothers Representative,

I am requesting permission to use approximately 30 seconds of film from the following film that your company holds the rights:

The Wizard of Oz (1939, 2005)

The clip will be used only for educational purposes, in a traditional classroom, in order to show college students an example of the fundamental elements of film. This particular clip will show the use of color as an artistic element.

The clip will begin when the tornado sets the house down (Black & White Film) and transitions into the land of OZ full of Color.

Please let me know if you need any further information.

Respectfully,

A handwritten signature in black ink, appearing to read "Jack Weimer", written over a horizontal line.

Jack Weimer, Ph.D.
Azusa Pacific University, Art Department
901 E. Alosta Ave., Azusa, CA 91702-7000

(909) 607-4440
jackw@cuc.claremont.edu

RECEIVED

JAN - 6 2009

CLIP & STILL LICENSING



WARNER BROS.
ENTERTAINMENT INC.

Clip & Still Licensing

January 6, 2009

Ref: 09-0011

Via E-Mail

jackw@cuc.claremont.edu

Jack Weimer, Ph.D.
Azusa Pacific University, Art Department
901 E. Alosta Avenue
Azusa, CA 91702-7000

Re: Film Clip Request: THE WIZARD OF OZ (1939)

Dear Dr. Weimer,

Thank you for your facsimile letter of today in connection with the above.

As you may know, the exhibition of motion pictures in schools or libraries constitutes a "public performance" under the United States Copyright Act. This normally requires a license from the copyright owner. However, there are certain exceptions to the license requirements, one of which is the "classroom exception." If your exhibition of our motion picture, or excerpts from it, come within the classroom exception, then you do not need a license. To fall within the exception, you must satisfy the following conditions.

1. The exception is available only to non-profit educational institutions.
2. The copy of the motion picture, which you are showing, must have been lawfully made (e.g., purchased or rented copies).
3. The exception applies only to the performances rendered in the course of face-to-face teaching activities in the classroom or similar place devoted to instruction. There may be no exhibition or transmission outside the classroom or place of instruction. Since the exception is for teaching, it does not apply to performances given for recreational, entertainment or commercial purposes.

A Time Warner Company

4000 Warner Boulevard, Burbank, California 91522
(818) 954-1853 • Fax: (818) 954-3817

Educational Use
August 2002

In addition to the above criteria, our lack of objection to your use is conditioned upon your obtaining a permission letter from the person(s) appearing in the clip. You may be able to do this by contacting the Screen Actors Guild, 5757 Wilshire Boulevard, Los Angeles, California 90036, (323) 954-1600.

If your intended use meets all of the criteria listed above, then in our view the classroom exception applies. If your use is outside the classroom exception, then you must license the use of the Property from Warner Bros. Entertainment Inc., with either, the Clip and Still Licensing Department, or for exhibition of the entire film, with Motion Picture Licensing. The telephone number for Clip & Still Licensing is (818) 954-1853 and the facsimile number is (818) 954-3817. The telephone number for Motion Picture Licensing is (800) 462-8855 ext. 3007 and the facsimile number is (310) 822-4440. Though we cannot guarantee that a license will be granted, Warner Bros. Entertainment Inc. maintains a cooperative licensing policy toward non-commercial institutional uses by students and teachers.

This letter addresses only the classroom exception with respect to the copyright in the Property and does not address any other legal issues, such as possible claims by other parties, which may be raised by your exhibition of this Property. This letter applies only to Warner Bros. Entertainment Inc. material, and is not intended as legal advice.

Sincerely,

Julie Heath

Julie Heath
Executive Director

JSH

Del Valle, Ivette

From: Jack Weimer [jack_weimer@cuc.claremont.edu]
Sent: Wednesday, January 07, 2009 11:16 AM
To: Heath, Julie S. (WB)
Subject: 09-0011 THE WIZARD OF OZ

Julie,

Thank you for taking the time to complete such a thorough letter. I am a new film instructor so I am trying to do things right in obtaining film clip permissions.

Do you have any suggestions on how to obtain a legal clip from the movie (as within the fair use act)? As I tried my first semester to show about 10 different clips from multiple Disks and the presentation was just awful. There was no flow in the discussion and the time it took to load to a menu, then to try to track it to the right cue only to repeat the process made me give up the complete lecture from frustration. My time was spent in legally trying to do what was right but getting stuck in the technology of the whole thing. I just want to show students the beauty of film...even make them better consumers of your product.

Do you have any suggestions?

Again, thanks for your time in discussing these matters with me,

Jack

-----Original Message-----

From: Heath, Julie [mailto:Julie.Heath@warnerbros.com]
Sent: Tuesday, January 06, 2009 6:03 PM
To: Jack Weimer
Subject: 09-0011 THE WIZARD OF OZ

The attached should cover your use regarding the above.

Kind regards,

Julie

<<09-0011 EDU - Use New.doc>>

JULIE S. HEATH | Executive Director, Clip & Still Licensing | Warner Bros. Entertainment
Inc. 4000 Warner Blvd., Burbank, CA 91522 |
818-954-1853 (ph) | 818-954-3817 (fax)
P please consider the environment before printing this email



WARNER BROS.
ENTERTAINMENT INC.

Clip & Still Licensing

January 20, 2009

Ref: 09-0011

Via E-Mail

jackw@cuc.claremont.edu

Jack Weimer, Ph.D.
Azusa Pacific University, Art Department
901 E. Alosta Avenue
Azusa, CA 91702-7000

Re: Film Clip Request: THE WIZARD OF OZ (1939)

Dear Dr. Weimer,

Thank you for your e-mail of January 7, 2009. We appreciate that you are "trying to do things right" in obtaining film clip permissions. As set forth in my letter of January 6, if the exhibit of one of our motion pictures or clips from one of our motion pictures falls within the classroom exception and the conditions described in the letter, then you do not need to obtain a license or permission from Warner Bros. Entertainment Inc.

We seek to be helpful with respect to in-classroom educational uses by professors and because your request concerns a single, specific clip of approximately 30 seconds, we are attaching an electronic file of the clip to this e-mail. Please be aware that our supply of this clip to you is conditioned upon your compliance with the provisions of my aforementioned January 6 letter, including the condition of obtaining permissions from the person(s) appearing in the clip.

Some time later this year, we hope to inaugurate a service along with the other studio members of the Motion Picture Association of America that will make film clips available to film professors and educators for in-classroom use at no charge. Our intention is that this service will facilitate the educational uses of our films that you and your fellow film professors seek to make for classroom instruction.

Sincerely,

Julie Heath

Julie Heath
Executive Director

JSH

A Time Warner Company

4000 Warner Boulevard, Burbank, California 91522
(818) 954-1853 • Fax: (818) 954-3817

dog, while Helen tries to photograph the graffiti sprayed across her front door. Anne-Marie's second appearance is even more suggestive. After Helen has climbed back into Ruthie Jean's bathroom, the women, and the audience, are startled by a figure revealed behind them in the reflection as the cabinet door is closed – but it is not Candyman, it is Anne-Marie finding out what is going on. She then berates them: 'You don't belong here lady! You don't belong going through people's apartments and things!'

Candyman manages to make the prospect of ghoulish immortality quite attractive, not least because he has ensured that Helen has no possibility of returning to her previous life – as his disembodied voice reminds her, 'all you have left is my desire for you'. But when Helen succumbs to his embrace upon the altar, swarms of bees crawl and fly out of his mouth and rib cage and she faints. On waking alone, she finds her likeness illuminated on one of the murals depicting the murder of Candyman: it seems not just that Candyman wants her to join him in monstrous immortality but that she is some kind of reincarnation of his earlier love.

In certain respects the film has prepared us for these scenes. Helen's encounters with Candyman often replay the motif of her gently highlighted eyes – in the car park scene, when Candyman begins to talk after she has attacked him, when she wakes on attack/embrace, she found the paintings of the assault on Candyman, the movement of her torch beam on his painted face achieves a similar effect, reminding us of the graphic match from her face in the restaurant to the eyes of the graffiti mural. This treatment, then, alerts us to a sympathy between Helen and Candyman, but the film now begins to suggest that Helen is destined to replay the post-bellum story by forming a new couple (and even a new family, with the abducted baby Anthony replacing the nascent child).

The very fears generated by the sequence are likely to further bind audience

Scene 5.5



Scene 5.6



EXHIBIT C

RECEIVED

JAN 7 2009

Vital
PICTURES

1300 Soldiers Field Rd
Suite 3
Boston • MA • 02135
P 617 254 6400
F 617 254 6411
www.vitalpix.com

To: Warner Bros. Clip Licensing Dept.
Fax: 818-954-3817

CLIP & STILL LICENSING

From: Kelly Thomson
Ph. 617-254-6400
Fax: 617-254-6411

Dear Clip Licensing Dept,

We are creating a one-hour for-PBS documentary about the life and work of the anthropologist, Melville Herskovits. The project is titled: *Herskovits at the Heart of Blackness*.


We are using two clips from the 1932 production of *Tarzan the Ape Man* and two clips from the 1931 cartoon *Bosko Shipwrecked!*. We believe that the context in which the clips are used falls under fair use, but we are writing to you in good faith to see if we can obtain permission from you to use the clips.

The clips used are as follows:

1. *Tarzan the Ape Man*: 5 sec. 16 frames. Features Tarzan swinging from vine. Used in film to demonstrate representations of African culture in popular American media in the 1930s.
2. *Tarzan the Ape Man*: 5 sec, 13 frames. Features explorers in battle with African natives. Used in film to demonstrate the introduction of white civilization in Africa.
3. *Bosko Shipwrecked!*: 2 sec., 2 frames. Features cannibals dancing around fire. Used in film to demonstrate representations of African civilization in popular media in the 1930s.
4. *Bosko Shipwrecked!*: 3 sec, 6 frames. Features cannibals running. Used in film to demonstrate representations of African civilization in popular media in the 1930s.

Thank you for your review of this request. You may have larger concerns than this, but can you please get back to me in the next five business days as we will be finishing the show. I can be reached at 617-254-6400 or Kelly.thomson@vitalpix.com.

Best Regards,


Kelly Thomson
Associate Producer



WARNER BROS.
ENTERTAINMENT INC.

Clip & Still Licensing

January 20, 2009

Ref: 09-0018

Via E-Mail

kelly.thompson@vitalpix.com

Ms. Kelly Thomson
Associate Producer
Vital Pictures
1300 Soldiers Field Rd., Suite 3
Boston, MA 01235

Re: Film Clip Request: TARZAN THE APE MAN (1932) / BOSKO SHIPWRECKED (1930)

Dear Ms. Thomson,

Thank you for your letter that we received on January 7, 2009. Warner Bros. Entertainment Inc. regularly licenses film clips and stills from motion pictures for use in documentary films. It is also true that under United States copyright laws, not all uses of copyrighted works in the U.S. must be licensed and some qualify as "fair use."

The legal test for fair use in the United States is a fact intensive analysis and one that the courts make on a case-by-case basis. No hard and fast rules or guidelines exist. In addition, laws concerning uses of copyrighted works that do not require permission from the copyright owner vary from country to country. Therefore, Warner Bros. Entertainment Inc. ("Warner Bros.") does not advise third parties as to whether any particular use of Warner Bros. owned properties—either just in the U.S. or internationally—meets the requirements of fair use or the foreign equivalent.

Irrespective of whether the use of the identified clips described in your January 7, 2009 letter constitutes fair use, Warner Bros. has no objection to the use described due to the brief length of the film clips and the purpose of the use.

Please remember that in sending this "no objection" letter, Warner Bros. speaks only for itself and in any case makes no representations, warranties or indemnities should any claim be made by any other party with respect to your use of the film clips, including but not limited to claims by person(s) appearing in the clips or claims concerning music contained in the clips.

Sincerely,

Julie Heath

Julie Heath
Executive Director

JSH

A Time Warner Company

4000 Warner Boulevard, Burbank, California 91522
(818) 954-1853 • Fax: (818) 954-3817